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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/528,846	03/20/2000	Doug Turner	013.0078	5404

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EXAMINER
PARTON, KEVIN S

ART UNIT	PAPER NUMBER
2153	

DATE MAILED: 12/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/528,846	TURNER ET AL.
	Examiner	Art Unit
	Kevin Parton	2153

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>02 September 2004</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-19* is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *7-12* is/are allowed.

6)☒ Claim(s) *1-6 and 13-19* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All   b)☐ Some * c)☐ None of:

   1.☐ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____.

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Response to Arguments

1.   Applicant's arguments regarding the 35 USC 112 rejection have been considered

and are persuasive. This rejection is withdrawn.

2.   Applicant's further arguments with respect to claims 1 and 13 have been

considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

3.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4.   Claims 1-6 and 13-19 are rejected under 35 U.S.C. 102(b) as being anticipated

by the Mozilla reference (http://cvs-

www.mozilla.org/webtools/bonsai/cvsblame.cgi?file=mozilla-

org/html/projects/silentdl/index.html&rev=1.1&root=/cvsroot).

5.   Regarding claim 1, the Mozilla reference teaches a system for downloading

portions of a remotely located network object comprising:

    a. A client (line 19).

    b. A server facility configured to be accessed via an electronic data

        network by the client and to send data corresponding to at least one

        portion of a network object to the client via the electronic data network

        (lines 18-22). Note that a server holds the content to be downloaded.

c. A software delegate residing on the client and configured to control an amount of the data and a size of the at least one portion of the network object to be downloaded from the server facility to the client independent of a user of the client and based solely upon an operating state of the client (lines 18-22, 43, 106-108, 138-140). Please note that the reference shows that a large file is downloaded in portions over time only when the computer is idle. This is why the server must support byte ranges, so the download of a single file can be continued at a particular byte number.

6.   Regarding claims 2 and 14, the reference teaches all the limitations as applied to claims 1 and 13, respectively. It further teaches means wherein the electronic data network is the Internet (lines 81-83).

7.   Regarding claim 3, the reference teaches all the limitations as applied to claim 1. It further teaches means wherein the software delegate is a Javascript applet (line 24).

8.   Regarding claim 4, the reference teaches all the limitations as applied to claim 1. It further teaches means wherein the amount of data is a range of bytes and the size of the that at least one portion is dependent on the operating state (lines 18-22, 106-107).

9.   Regarding claims 5 and 17, the reference teaches all the limitations as applied to claims 1 and 16, respectively. It further teaches means wherein the operating state is an idle state (lines 20-21).

10.   Regarding claim 6 and 18, the reference teaches all the limitations as applied to claims 1 and 16, respectively. It further teaches means wherein the operating state is a busy state (lines 20-21).

11.   Regarding claim 13, the Mozilla reference teaches a system for facilitating downloading portions of a remotely located network object with means for:

      a. Using a client computer to access a server facility via an electronic data network (line 19).

      b. Receiving, at the client computer, portions of a network object from the server facility (lines 18-22).

      c. Storing the portions of a network object within the client computer to create locally a completely downloaded copy of the network object (lines 18-22, 96-98).

      d. Controlling a size of the portions of the network object received from the server facility independent of a user of the client and based solely upon an operating state of the client computer (lines 18-22, 43, 106-108, 138-140).

12.   Regarding claim 15, the reference teaches all the limitations as applied to claim 13. It further teaches means wherein the size of the portions of the network object in the controlling step is a range of bytes (lines 106-107).

13.   Regarding claim 16, the reference teaches all the limitations as applied to claim 13. It further teaches means wherein the size of the portions of the network object in

the controlling step is dependent on the operating state of the client computer (lines 20-21).

14.   Regarding claim 19, the reference teaches all the limitations as applied to claim 13. They further teach means wherein the controlling step is performed by a software delegate residing on the computer (lines 18-19).

Allowable Subject Matter

15.   Claims 7-12 are allowed.

Conclusion

16.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Please see he following:

    a. Ferguson (USPN 6,769,019)

    b. Scott et al. (USPN 6,338,094)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Parton whose telephone number is (571)272-3958. The examiner can normally be reached on M-F 8:00AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached on (571)272-3949. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

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For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

                                                        Kevin Parton
                                                        Examiner
                                                        Art Unit 2153

ksp

                                    GLENTON B. BURGESS
                                  SUPERVISORY PATENT EXAMINER
                                    TECHNOLOGY CENTER 2100